

POLICY NO. 3700
Adopted: 10-26-94
Revised: 5-13-98
Revised: 9-27-00
Replaced: 2-9-05
Revised: 5-23-07
Revised: 8-10-11
Revised: 8-24-16
Revised: 1-9-19
Revised: 1-27-21
Revised: 8-24-22

PURCHASING

POLICY:

It is the intent of the Board of Directors to conduct open, fair, and competitive purchasing and to exercise local preference when competitive factors are equal and to the extent allowed by law.

Procedures

The Superintendent will establish bidding and contract awarding procedures consistent with state and federal laws. All dollar figures specified shall be exclusive of sales tax and will automatically change to the extent the underlying statutory authority changes.

In no case shall any purchase or public work be divided for the purpose of circumventing these requirements.

A record of competition shall be documented for audit purposes in a standard District format.

Exemption

The Board, Superintendent or Superintendent's designee may waive competitive bid requirements for:

- a. Purchases that are clearly and legitimately limited to a single source of supply;
- b. Purchases involving special facilities or market conditions;
- c. Purchases in the event of an emergency;
- d. Purchases of insurance or bonds; or
- e. Public works in the event of an emergency. RCW 39.04.280.

"Emergency" means unforeseen circumstances beyond the District's control that present a real, immediate threat to the proper performance of essential functions or will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

Whenever bid requirements are waived, a document explaining the factual basis for

the exception and contract will be recorded and open for public inspection.

Rejection

The District may reject any or all bids or proposals.

Interlocal Cooperation Act

The District reserves the right to enter into inter-local cooperative agreements for purchases and public works with other governmental agencies provided such agencies have complied with the requirements of RCW 39.34.030(5)(b). The District will ensure the other governmental entities have followed their own procedures for procurement prior to making any purchases under this section.

Crimes Against Children

The District will include in any contract for services with an entity or individual other than an employee of the District a provision requiring the contractor to prohibit any employee of the contractor from working at a public school who has contact with children at a public school during the course of his or her employment and who has pled guilty to or been convicted of any felony crime specified under RCW 28A.400.322. The contract shall also contain a provision that any failure to comply with this section shall be grounds for the District immediately terminating the contract.

Conflict of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. District employees shall refrain from conducting business with District employee-owned businesses when acting on behalf of the District. See also Washington's conflict of interest statute, RCW 42.23.

No employee, officer, or agent of the District may solicit, accept or receive, directly or indirectly, any gift, favor, token, membership, service, or anything of monetary value from suppliers or potential suppliers of good and services to the District. District employees prohibited from accepting any gratuity (including food or beverages). Violation of these standards may result in disciplinary action including, but not limited to, suspension, dismissal, or removal.

POLICY NO. 3700
Adopted: 10-26-94
Revised: 5-13-98
Revised: 9-27-00
Replaced: 2-9-05
Revised: 5-23-07
Revised: 8-10-11
Revised: 8-24-16
Revised: 1-9-19
Revised: 1-27-21
Revised: 8-24-22

PURCHASING

PROCEDURES:

1. Definitions.
 - 1.1. The "Award Requirements" for Public Work include the following statutory requirements before an Award is made. The lowest responsive bidder must:
 - 1.1.1. have a current state unified business identifier number;
 - 1.1.2. if applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW;
 - 1.1.3. have an employment security department number as required in Title 50 RCW;
 - 1.1.4. have a state excise tax registration number as required in Title 82 RCW;
 - 1.1.5. not be disqualified from bidding on any public works contract under RCW 39.06.010 (unregistered or unlicensed contractors) or RCW 39.12.065(3) (prevailing wage violations);
 - 1.1.6. at the time bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
 - 1.1.7. if bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes, as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;
 - 1.1.8. within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as

defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW (before award of a contract, a bidder shall submit to the District a signed statement in accordance with RCW 9A.72.085 verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of this subsection); and

- 1.1.9 have received training on the requirements related to public works and prevailing wages under chapters 39.04 and 39.12 RCW, or be exempt from such training requirements if the Bidder has completed three or more public works projects and has had a valid business license in Washington for three or more years.

Further, under revised RCW 39.04.350, if the Bidder has a history of receiving monetary penalties for not achieving the apprentice utilization requirements pursuant to RCW 39.04.320, or is habitual in utilizing the good faith effort exception process, the bidder must submit an apprenticeship utilization plan within ten business days immediately following the School District's notice to proceed.

- 1.2. A "Bid" is a formal offer to contract with the School District on the terms specified. Unless otherwise specified in this policy, all Bids must be in writing and will be opened and read in public on the date, time and in the place named in the notice. After being opened, all Bids will be filed for public inspection.
- 1.3. The "Cost" of any Public Work is the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. RCW 28A.335.190(1). Projects will not be broken into units or phases for the purpose of avoiding the maximum dollar Cost of a contract. RCW 39.04.155(4). Cost does not include sales tax. The Cost levels specified in this policy will automatically change to the extent the underlying statutory authority changes.
- 1.4. "Public Work" includes all work, construction, alteration, repair, or improvement, other than ordinary maintenance, executed at the cost of the School District. RCW 39.04.010.
- 1.5. "Purchase" means the School District's purchase of furniture, equipment or supplies, except books, and is not applicable to contracts for Public Works or services. RCW 28A.335.190(2).
- 1.6. The contract for work or purchase shall be awarded to the responsive and lowest responsible bidder as described in RCW 39.04.350 or in 39.26.160(2), but the District may reject any and all bids. To be considered "Responsible" under RCW 39.04.350 or RCW 39.26.160(2), a bidder must meet the Award Requirements and the following supplemental criteria applicable to this Project (together, the "Responsibility Criteria") to the satisfaction of the School District:
 - 1.6.1. The ability, capacity, and skill to perform the contract or provide the service required;
 - 1.6.2. The character, integrity, reputation, judgment, experience, and

efficiency;

- 1.6.3. The ability to perform the contract within the time specified;
- 1.6.4. The quality of performance of previous contracts or services;
- 1.6.5. The previous and existing compliance with laws relating to the contract or services; and
- 1.6.6. Within the three-year period immediately preceding the date of the bid solicitation, the bidder has not been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated any provision of chapter 49.46, 49.48, or 49.52 RCW, as defined in RCW 49.48.082. Before awarded a contract, a bidder shall submit to the district a signed statement in accordance with RCW 9A.72.085, verifying under penalty of perjury that the bidder is in compliance with the responsible bidder criteria requirement of this subsection of RCW.

The Superintendent may also apply the following additional criteria to Public Work:

- 1.6.7. Demonstration of successful completion of equivalent projects of a scope and magnitude equal to or greater than the Project bid.
- 1.6.8. The designated Project Manager shall have the successful experience in project management and scheduling of projects of scope and complexity similar to the Project.
- 1.6.9. The designated Superintendent shall have the successful supervision of projects of similar scope and complexity.
- 1.6.10. The bidder is not currently a party to a formal dispute resolution proceeding with the School District—i.e., pending mediation, arbitration or litigation.
- 1.6.11. Such other experience criteria as may be appropriate for the complexity of the Project.

2. Purchases

2.1. Formal Bids for Purchases Over \$75,000.

- 2.1.1. *Estimated Cost.* The School District may use the following process at any Cost level, but it will use this process when the Cost of any purchase of goods is estimated to exceed the amount specified in RCW 28A.335.190(2) [currently \$75,000].
- 2.1.2. *Solicitation.* Plans and specifications for the purchase will be published in at least one newspaper of general circulation within the School District, once a week for two consecutive weeks, along with notice of its intent to receive Bids, and notice that the

specifications and other information may be examined at a designated location. RCW 28A.335.190(1) and (2).

2.1.3. *Not Applicable to:* Books, buses and Washington grown food.

2.1.4. *Rejection.* The School District may reject any and all Bids.

2.1.5. *Award.* If a contract is awarded, the School District will contract with the lowest responsive and Responsible bidder. If Bids for alternates have been solicited, the District will accept alternates at its discretion and will include Bids for accepted alternates along with base Bids to determine the lowest Bid.

2.2. Competitive Basis for Purchases between \$40,000 and \$75,000.

2.2.1. *Estimated Cost.* When the Cost of any purchase of goods is estimated to be between the lower amount specified in RCW 28A.335.190(2) [currently \$40,000] and up to the higher amount specified in RCW 28A.335.190(2) [currently \$75,000].

2.2.2. *Solicitation.* A Purchase at this Cost level will be on a "competitive basis." The School District will secure telephone, written or electronic quotations from at least three different vendors whenever possible. RCW 28A.335.190(2). The District will not disclose the amount of any quotation until all quotations are received.

2.2.3. *Not Applicable to:* Books, buses and Washington grown food.

2.2.4. *Rejection.* The School District may reject any and all quotations.

2.2.5. *Award.* If a contract is awarded, the School District will contract with the responsive and Responsible vendor submitting the lowest quotation. Immediately after the award is made, the quotations will be recorded, open to public inspection, and shall be available by telephone inquiry.

2.3. Procurement of Purchases Below \$40,000.

2.3.1. *Estimated Cost.* When the Cost is estimated to be less than the amount specified in RCW 28A.335.190(2) [currently \$40,000].

2.3.2. *Solicitation.* No competitive bidding process is required to make the purchase.

2.4. Buses.

2.4.1. The purchase of school buses will be in accordance with RCW 28A.160.195. RCW 28A.335.190(7).

3. Public Works

3.1. Formal Solicitation of Public Work \$100,000 and Over.

3.1.1. *Estimated Cost.* The School District may use the following process at any Cost level, but it will use this process when the Cost of Public Work is estimated to equal or exceed the amount specified in RCW 28A.335.190(4) [currently \$100,000] and if the School District is not following the Small Works process described in RCW 39.04.155 or under any other procedure authorized for school districts.

3.1.2. *Solicitation.* Plans and specifications for the work will be published in at least one newspaper of general circulation within the School District, once a week for two consecutive weeks, along with notice of its intent to receive Bids, and notice that the specifications and other project information may be examined at a designated location. RCW 28A.335.190(1) and (4) and RCW 39.04.020.

3.1.3. *Plans and Specifications.*

.1 A certified copy of approved plans and cost estimate will be filed in the School District office before taking any action.
RCW 39.04.020.

.2 Estimates will show the estimated Cost of the work, the estimated quantity, unit cost, and total cost of each class of work, the time limit allowed for the completion of the work, and the estimated dates of commencement and completion.
RCW 39.04.050.

3.1.4. *Rejection.* The School District may reject any and all Bids.

3.1.5. *Award.* If a contract is awarded, the School District will contract with the lowest responsive and Responsible bidder. If Bids for alternates have been solicited, the District will accept alternates at its discretion and will include Bids for accepted alternates along with base Bids to determine the lowest Bid.

3.2. Option: Shop and Repair Department Performance of Public Work Under \$75,000.

3.2.1. Public Work with an estimated Cost less than the amount specified in RCW 28A.335.190(4) [currently \$75,000] may, at the discretion of the Superintendent, be completed by a department within the District.

3.3. Option: Small Works \$350,000 or Less.

3.3.1. *Regular Small Works Option.* This is an option for awarding contracts for construction, renovation, repair, or improvement, for Public Work estimated to Cost equal or be less than the amount specified in RCW 39.04.155(1) [currently \$350,000]. The School District hereby establishes a small works roster procedure pursuant to the following process. RCW 39.04.155(2)(b).

3.4.1.1. Roster.

- .1 A "general" small works roster and small works rosters for the categories of work determined by the Superintendent will be created. RCW 39.04.155(2)(a).
- .2 The small works rosters may distinguish between contractors based on geographic areas served by the contractor. RCW 39.04.155(2)(a).
- .3 All small works rosters will consist of all Responsible contractors requesting inclusion on the roster. RCW 39.04.155(2)(a).
- .4 Responsible contractors shall be added to rosters upon written request at any time, provided they provide the required information, including without limitation satisfactory licenses, certifications, registrations, bondability, insurance, or other appropriate matters and sign the School District's Master Contract. RCW 39.04.155(2)(a).
- .5 To remain on small works roster, contractors must remain Responsible and keep records of all licenses, certifications, registrations, bondability, insurance, or other appropriate matters on file with School District. Quotations will not be sought from any contractor if such information on file is not current. RCW 39.04.155(2)(a).
- .6 Rosters will be identified and additional contractors solicited at least once a year via publication in a local newspaper of general circulation. RCW 39.04.155(2)(a).

3.4.1.2. Quotations.

- .1 A contract awarded from a small works roster need not be advertised. RCW 39.04.155(2)(d).
- .2 Invitations for quotations shall include an estimate of the materials and equipment needed and the scope and nature of work to be performed. Detailed plans and specifications need not be included in the invitation. RCW 39.04.155(2)(c).
- .3 The School District will secure telephone, written, or electronic quotations either from all appropriate contractors on the small works roster, or from at least five contractors from the appropriate small works roster who have indicated the capability of performing the type of work being contracted. If the Cost is estimated to be from or greater than the lower amount specified in RCW 39.04.155(2)(c) [currently \$250,000], any contractors not invited to quote will be notified by mail, advertisement or electronically that quotations are being sought. RCW 39.04.155(2)(c).
- .4 So that certain contractors are not favored, the School District will record each time a contractor is solicited and, absent good cause, will solicit an approximately equal number of times each year each contractor that has

indicated the capability of performing the type of work being contracted on each roster. RCW 39.04.155(2)(c).

3.4.1.3. Award.

.1 Immediately after an award is made, all quotations will be recorded, open to inspection, and available via telephone inquiry. RCW 39.04.155(2)(e).

.2 The School District may reject any and all quotations.

.3 If a contract is awarded, the School District will contract with the lowest Responsible and responsive quote provider. If quotations for alternates have been solicited, the District will accept alternates in its discretion and will include quotations for accepted alternates along with base quotations to determine the lowest quotation.

3.4.1.4. Records.

.1 A list of the contracts awarded will be made available at least once a year.

.2 The list will include the contractor, the contract amount, a brief description of the work performed, and the date it was awarded.

.3 The list will also state the location where the Bid quotations for these contracts are available for inspection. RCW 39.04.200.

3.4.1.5. Other Small Works Roster Sources.

.1 The School District may authorize an educational service district to establish and operate on the District's behalf a small works roster consistent with RCW 39.04.155. RCW 28A.335.190(4).

.2 Any interlocal agreement establishing a small works roster must be separately approved by the Board.

3.3.2. *Option: Limited Small Works for Public Work Under \$50,000.*

.1 The School District may use the Limited Small Works Option for Public Work estimated to Cost less than the amount specified in RCW 39.04.155(3) [currently \$50,000].

.2 The School District will:

(1) solicit electronic or written quotations from at least three contractors from the small works roster;

(2) if a contract is awarded, the District will award the contract to the lowest Responsible quoter;

(3) the District will attempt to allocate opportunities for limited small works projects among contractors; and

(4) the District will make the quotations available for public inspection or by electronic request. RCW 39.04.155(3).

.3 The School District will maintain a list of all contractors contacted and contracts awarded during the previous two years using the Limited Small Works Option. The list will include the contractor's name and registration number, the amount of the contract, a brief description of the work performed, and the date the contract was awarded.

3.4. Option: Other Public Procurement Methods.

3.4.1. If the School District determines that Public Work should be awarded by a method other than competitive bid or a small works roster process, and the probable Cost of the work will exceed the amount specified in RCW 39.04.020 [currently \$25,000], then the District will publish a description of the work in a general newspaper within the District on at least one occasion more than fifteen days before work begins. An accurate account of all Costs of the work will also be kept in accordance with the budgeting, accounting, and reporting provisions prescribed by law.
RCW 39.04.070.

3.5. Option: Alternative Public Works.

3.5.1. General Contractor/Construction Manager (GC/CM) Contracting Procedure.

.1 A "GC/CM contract" is a contract having a maximum allowable construction cost that is negotiated with a selected firm to provide services during the design phase of a project and to act as construction manager and general contractor during the construction phase of a project. RCW 39.10.210(7).

.2 The GC/CM contracting procedure will be used if and when the Board makes the appropriate statutory determinations by separate resolution and gains the required approvals. RCW 39.10.340 and RCW 39.10.270 and .280.

3.5.2. Design-Build Contracting Procedure.

.1 A "design-build contract" is a contract between the School District and another party in which the other party agrees both to design and build the facility, portion of the facility, or other item specified in the contract. RCW 39.10.210(5).

.2 The design-build contracting procedure will be used if and when the Board makes the appropriate statutory determinations by separate resolution and gains the required approvals. RCW 39.10.300 and RCW 39.10.270 and .280.

3.5.3. Job Order Contracting Procedure.

.1 A "job order contract" is a contract between the School District and a contractor in which the contractor agrees to perform an indefinite quantity of Public Work during a fixed period using negotiated work orders. RCW 39.10.210(9).

.2 If the School District desires to utilize the job order contracting procedure, it will do so by separate resolution. RCW 39.10.420

4. Exemptions from Competitive Bid Requirements.

4.1. Emergency Protocol.

4.1.1. If the School District would suffer material injury or damage by delay as a result of an emergency, the facts leading to the District's decision to declare an emergency will be specified. The District may then waive the competitive bid requirements with reference to any Purchase or Public Works contract. RCW 39.04.280(2)(b).

4.1.2. An "emergency" means a condition presenting an immediate threat to performance of essential School District functions or a condition likely to result in immediate physical injury to persons or property of the District. RCW 39.04.280(3).

4.1.3. Both the contract and factual basis for the waiver will be recorded and open to the public immediately after the award. RCW 39.04.280(2)(a). When an emergency necessitates Public Work, publication of a description and Cost estimate of the work may be made within 7 days after the commencement of the work. RCW 39.040.020.

4.2. Electronic Data Processing and Telecommunications Systems Exception.

4.2.1. The School District may acquire electronic data processing systems and telecommunication equipment, software, or services through competitive negotiation. RCW 39.04.270(2).

4.2.2. "Competitive negotiation" will include at least the following:

.1 *Notice.* A request for proposal will be prepared and submitted to an adequate number of qualified sources to solicit reasonable competition. Notice of the request for proposal will be published in a newspaper of general circulation within the District at least 13 days before the last date when proposals will be received. The request for proposal shall identify all significant evaluation factors, including price, and their relative importance. RCW 39.04.270(3)(a).

.2 *Procedures.* The Superintendent will provide reasonable procedures for evaluation of the submitted proposals, identification of qualified sources, and for the selection of the proposal.

RCW 39.04.270(3)(b).

.3. *Award.* The award shall be made to the qualified proposer whose proposal is most advantageous to the School District, with price and other factors considered. The District may reject proposals for cause and request new proposals.

RCW 39.04.270(3)(c).

4.3. Building Engineering Systems Exception.

4.3.1. "Building engineering systems" means those systems where contracts have customarily been awarded with a requirement that the contractor provide final approved specifications.

RCW 39.04.290(2)(a).

4.3.2. The School District may award contracts of any value for the design, fabrication, and installation of building engineering systems using:

.1 A competitive-bid or a request-for-proposal process where bidders are required to provide final specifications and a Bid price for the design, fabrication, and installation of building engineering systems, with the final specifications being approved by an appropriate regulatory body; or

.2 A competitive bid process where bidders are required to provide final specifications for the design, fabrication, and installation of building engineering systems as part of a larger project with the final specifications for the building engineering systems portion of the project being approved by an appropriate regulatory body.

RCW 39.04.290(1).

4.4. Performance-Based Contracts.

4.4.1. The Public Works bidding requirements do not apply to performance-based contracts for energy equipment as defined in RCW 39.35A.020. RCW 39.04.170.

4.5 Change Orders.

4.5.1. As a clarification, the competitive bidding requirements in these policies do not apply to change orders to existing contracts. To the extent allowable by law, the District may negotiate change orders with existing contractors.

5. Bids and Quotations

5.1 The following procedures shall be in effect for purchasing through the bidding process:

5.1.1. Formal bids shall be opened on the date, time and place stated in the official advertisement for bids and any interested member of the public may attend the bid opening. It shall be the bidder's sole

responsibility to see that his/her bid is delivered to the District prior to the time set for opening of bids.

- 5.1.2. Formal bid tabulations shall be presented at the next regular meeting of the Board for study purposes or for bid approval as recommended.
- 5.1.3. Formal bid awards shall be made by the Board on the basis of the Superintendent's/or designee's recommendation at the meeting after the bid opening, except that the Board can waive this requirement when time is of the essence.
- 5.1.4. Brand names and manufacturers' catalog numbers used in specifications are for the purpose of identification and to establish a standard of quality. Bids on equal items shall be considered, providing the bidder specifies the brand and model and furnishes descriptive literature. The acceptance of alternative "equal" items shall be conditioned on the District's inspection and testing after receipt. If not found to be equal, the material shall be returned at the seller's expense and the contract canceled.
- 5.1.5. The District shall reserve the right to reject any or all bids or proposals, waive any formalities and/or irregularities, cancel the solicitation, if reason exists, and make the award in its best interest.
- 5.1.6. On construction projects, the bidder shall agree to comply with prevailing wage and non-discrimination requirements and shall provide a payment and performance bond except when not required by law.
- 5.1.7. An acceptable bid or offer and a district purchase order shall constitute the only contract necessary for the purchase of supplies, equipment, and minor repairs or construction projects, except that the successful bidder shall meet all conditions included in the specifications.
- 5.1.8. Formal written contracts shall be prepared for all major construction and repair projects. Such contracts shall be signed by the Board President and Secretary on behalf of the District after the contracts have been awarded by a majority vote of the Board with action recorded in the minutes of the board meeting. All contracts shall provide that, in the event of a suit by the District to enforce the terms of the contract, venue for the suit shall be laid in the county in which the District is located. The contract shall contain a proviso requiring the contractor to prohibit any of its employees who have ever been convicted of or pled guilty of any to the child-related felony crimes specified under RCW 28A.400.322 from working where he/she has contact with public school children. The contract shall also provide that failure to comply with this requirement is grounds for immediate termination of the contract.

6. Procurement Card Procedure

- 6.1. The card user is responsible to obtain budget authorization for each purchase.
- 6.2. Each user shall read and sign the User Agreement for a District-issued credit/procurement card prior to entering into a District procurement card transaction. This signed document shall be kept on file.
- 6.3. The dollar figures and restrictions identified in the purchasing definition above and in the User Agreement for the District-issued credit/procurement card apply.
- 6.4. Monthly and per transaction limits shall be set in Business Services for each card holder which may vary depending on purchasing needs, budget capacity, and the type of school site.
- 6.5. When placing orders by telephone the purchaser shall record:
 - 1 Vendor name
 - 2 Item description
 - 3 Order confirmation number
 - 4 Person with whom you spoke
 - 5 Date order was placed
 - 6 Total price (including shipping, handling, and tax)
- 6.6. The site's procurement card coordinator will review all transactions that post to his/her site's cards each month. The review process involves verifying that the purchase is legitimate, supporting detail (receipts) are obtained, and if necessary, changing the default account number and marking "Use Tax" flag. It is recommended that the notes be affixed to transactions describing specifics of the purchase. Once the review is completed, the budgetary authority approves the transactions. Original documentation supporting the procurement card transactions is retained and available for audit.
- 6.7. Notify Business Services if a vendor is not able to accept the procurement card or if an error is discovered on the Detail Transaction Report.
- 6.8. Cardholder will immediately report any stolen or lost card to Business Services. If non-business hours, contact the credit card company directly and notify Business Services on the next business day.

7. Procurement Using Federal Funds. The following rules shall also apply when a purchase or public works project is paid for in full or in part by federal funds. To the extent that either the Washington state rules or the federal rules are more stringent, the more stringent of the two rules shall apply.

7.1. Washington K-12 Education System

- 7.1.1. Washington State public school districts, educational service districts (ESDs), and the Office of Superintendent of Public Instruction (OSPI) are considered partners in the Washington K-12 Education System (System). Washington State and federal law both (a) encourage and authorize the use of intergovernmental transactions as an economically responsible alternative to competitive procurements from private providers and (b) reflect a presumption that intergovernmental agreements result in the most efficient and effective use of public funds (RCW 39.34.010 and 2 CFR 200.318(e)).
- 7.1.2. The efficiency and effectiveness of and between the component members of the Washington K-12 Education System (System) is recognized. This System, individually and collectively, provides for the benefit of public education and is of paramount importance. Therefore, a competitive procurement procedure between the component members of the System is not a good use of resources and shall not be required. However, it is presumed that the individual entities within the System have conformed to the bid requirements set forth by state and federal statutes.
- 7.2. Goods – Furniture, Supplies, Other Property and Equipment
 - 7.2.1. Purchases of \$10,000 or less do not require quotes. However, the District must consider price to be reasonable based on research, experience, purchase history, or other information and must document this determination. In addition, to the extent practical, purchases should be distributed equitably among responsible, responsive suppliers.
 - 7.2.2. Purchases between \$10,000 and \$75,000 must be procured using price or rate quotations from three or more qualified sources.
 - 7.2.3. Purchases of \$75,000 or more must be publicly solicited using sealed bids or request for proposals to comply with State law requirements.
 - 7.2.4. Self-Certification - If during a given fiscal year, the District qualifies as a low-risk auditee in accordance with criteria in 2CFR § 200.520, as determined by the auditor, or documentation it received a low risk assessment after an annual internal institutional risk assessment to identify, mitigate and manage financial risks, then the District may use the following Goods Self-Certification thresholds instead of the ones described above:
 - .1 Purchases of \$40,000 or less do not require quotes. However, the District must consider price to be reasonable based on research, experience, purchase history, or other information and must document this determination. In addition, to the extent practical, purchases should be distributed equitably among responsible, responsive suppliers.

- .2 Purchases between \$40,000 and \$75,000 must be procured using price or rate quotations from three or more qualified sources.
- .3 Purchases of \$75,000 or more must be publicly solicited using sealed bids or request for proposals.
- .4 If the District qualifies for Self-Certification and wants to go above the \$40,000 Self-Certification limit, the District reserves the right to seek approval for higher limits from OSPI.
- .5 To qualify for Self-Certification, prior to the start of each fiscal year, the Superintendent or the Superintendent's designee, will sign a Self-Certification (Form 3700F) based on confirmation from the auditor that the District qualified as a low risk auditee or based on a review of internal control system documentation and completed self-assessments for major financial processes to identify, mitigate and manage financial risks.

7.3. Services and Books

- 7.3.1. Purchases of \$10,000 or less do not require quotes. However, the District must consider price to be reasonable based on research, experience, purchase history, or other information and must document this determination. In addition, to the extent practical, purchases should be distributed equitably among responsible, responsive suppliers.
- 7.3.2. Purchases between \$10,000 and \$250,000 must be procured using price or rate quotations from three or more qualified sources.
- 7.3.3. Purchases of \$250,000 or more must be publicly solicited using sealed bids or request for proposals.
- 7.3.4. Services and Books Self-Certification - If during a given fiscal year, the District qualifies as a low-risk auditee in accordance with criteria in 2 CFR § 200.520, as determined by the auditor, or documentation it received a low risk assessment after an annual internal institutional risk assessment to identify, mitigate and manage financial risks, then the District may use the following Goods Self-Certification thresholds instead of the ones described above:
 - .1 Purchases of \$50,000 or less do not require quotes. However, the District must consider price to be reasonable based on research, experience, purchase history, or other information and must document this determination. In addition, to the extent practical, purchases should be distributed equitably among responsible, responsive suppliers.
 - .2 Purchases between \$50,000 and \$250,000 must be procured

using price or rate quotations from three or more qualified sources.

- .3 Purchases of \$250,000 or more must be publicly solicited using sealed bids or request for proposals.
- .4 If the District qualifies for Self-Certification and wants to go above the \$50,000 Self-Certification limit, the District reserves the right to seek approval for higher limits from OSPI.
- .5 To qualify for Self-Certification, prior to the start of each fiscal year, the Superintendent or the Superintendent's designee, will sign a Self-Certification (Form 3700F) based on confirmation from the auditor that the District qualified as a low risk auditee or based on a review of internal control system documentation and completed self-assessments for major financial processes to identify, mitigate and manage financial risks.

7.4. Noncompetitive Procurement

7.4.1. Noncompetitive procurement may be used only when one of the following five circumstances applies:

- .1 Acquiring goods or services that do not exceed the applicable micro-purchase threshold;
- .2 The item is only available from a single source;
- .3 The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- .4 The awarding agency (e.g., OSPI) authorizes noncompetitive procurement in response to a written request from the District;
or
- .5 After solicitation of a number of sources, competition is inadequate.

7.4.2. The Superintendent or designee, may declare an emergency, waive competitive bidding requirements, and award all necessary contracts on behalf of the District to address the emergency situation.

7.4.3. For purposes of this section "emergency" means unforeseen circumstances beyond the control of the District that either (a) present a real, immediate threat to the proper performance of essential functions or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

7.4.4. Documentation supporting the applicable circumstances for noncompetitive procurement will be maintained and the Superintendent shall be notified.

7.5. Cost/Price Analysis

7.5.1. The District will perform a cost or price analysis in

connection with every procurement action in excess of the federal simplified acquisition threshold, currently set at \$250,000, or other limits identified in 48 CFR § 2.101, including contract modifications.

- 7.5.2. The method and degree of analysis is dependent on facts surrounding the procurement situation, but should include, as a starting point, independent estimates before receiving bids or proposals.
- 7.5.3. In cases where no price competition exists and in all cases where the District performs the cost analysis, profit must be negotiated as a separate element in the process.
- 7.5.4. To ensure profit is fair and reasonable, consideration must be given to the complexity of the work performed, the risk borne by the contractor, the contractor's investment, the amount of the subcontracting, the quality of the contractor's past performances, and industry standard profit rates in the surrounding geographical area.
- 7.5.5. Costs or prices based on estimated costs for contracts are allowed only to the extent that the costs incurred or cost estimates would be allowable under 2 CFR § 200.400 - .476.

7.6. Suspension and Debarment

- 7.6.1. Before any procurement transaction that will equal or exceed \$25,000, the District will ensure the vendor or contractor is not suspended or debarred from participating in federal assistance programs.
- 7.6.2. Before any subcontract award in any amount, the District will ensure the grantee is not suspended or debarred from participating in federal assistance programs.